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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/820,513

03/29/2001

Alex Ruan

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09/07/2004

LUCENT TECHNOLOGIES INC.

DOCKET ADMINISTRATOR

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HOLMDEL, NJ 07733

EXAMINER

PAYNE, DAVID C

ART UNIT

PAPER NUMBER

2633

DATE MAILED: 09/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

KSD

**Office Action Summary**

Application No.

09/820,513

Applicant(s)

RUAN ET AL.

Examiner

David C. Payne

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 June 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 2 and 4-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4-8, 10-18 and 20-24 is/are rejected.
- 7) ☒ Claim(s) 9, 19 and 25 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claim(s) 1 and 11 are rejected under 35 U.S.C. 103(a) as being obvious over Fatehi et al. US 6,192,172 B1 (Fatehi-172) in view of Frigo et al. US 5,742,414 (Frigo).

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art only under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 103(a) might be overcome by: (1) a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not an invention "by another"; (2) a showing of a date of invention for the claimed subject matter of the application which corresponds to subject matter disclosed but not claimed in the reference, prior to the effective U.S. filing date of the reference under 37 CFR 1.131; or (3) an oath or declaration under 37 CFR 1.130 stating that the application and reference are currently owned by the same party and that the inventor named in the application is the prior inventor under 35 U.S.C. 104, together with a terminal disclaimer in accordance with 37 CFR 1.321(c). For applications filed on or after November 29, 1999, this rejection might also be overcome by showing that the subject matter of the reference and the

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claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person. See MPEP § 706.02(l)(1) and § 706.02(l)(2).

Regarding claim 1

Fatehi-172 disclosed (Figure 3)

An apparatus for use in an optical network for providing specified communications signals to targeted recipients, said apparatus comprising: one or more cross-connect devices (300, 386, 388) for receiving communication signals on individual communication paths (373, 375, 377); and one or more optical multiplexer units having inputs (378, 380, 382) respectively coupled to outputs of said cross-connect devices, wherein said cross-connect devices are operable to selectively distribute said communication signals on said individual communications paths to none, some or all inputs of said optical multiplexer units for distribution to said targeted recipients (e.g., col./line: 2/5-15).

Fatehi-172 does not disclose wherein said specified communication signals are contained on various optical wavelengths, one or more selected wavelengths being representative of a target service for said target recipients. Frigo disclosed a system where different services are rendered to different users on different wavelengths (e.g., col./line: 6/50-65). It would have been obvious to one of ordinary skill in the art at the time of invention to deliver services over different wavelengths. One is motivated to deliver services as such so as to deliver services to different users in other than a broadcast fashion such as multicast and switched services as discussed in

Frigo, see col./line: 4/15-60).

Regarding claim 11, the modified invention of Fatehi-172 and Frigo disclosed wherein said cross-connect devices are MEMs devices (e.g., Fatehi-172 col./line: 9/27-31).

2. Claim(s) 1, 5-8, 10 and 12 are rejected under 35 U.S.C. 103(a) as being obvious over Fatehi et al. US 5,959,767 (Fatehi-767) in view of Frigo et al. US 5,742,414 (Frigo).

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art only under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 103(a) might be overcome by: (1) a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not an invention "by another"; (2) a showing of a date of invention for the claimed subject matter of the application which corresponds to subject matter disclosed but not claimed in the reference, prior to the effective U.S. filing date of the reference under 37 CFR 1.131; or (3) an oath or declaration under 37 CFR 1.130 stating that the application and reference are currently owned by the same party and that the inventor named in the application is the prior inventor under 35 U.S.C. 104, together with a terminal disclaimer in accordance with 37 CFR 1.321(c). For applications filed on or after November 29, 1999, this rejection might also be overcome by showing that the subject matter of the reference and the claimed invention were, at the time the invention was made, owned by the

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same person or subject to an obligation of assignment to the same person. See MPEP § 706.02(l)(1) and § 706.02(l)(2).

Regarding claim 1

Fatehi-767 disclosed (Figure 4)

An apparatus for use in an optical network for providing specified communications signals to targeted recipients, said apparatus comprising: one or more cross-connect devices (403-1 to 403-M) for receiving communication signals on individual communication paths (401-1 to 401-M); and one or more optical multiplexer units having inputs (404-1 to 404-M) respectively coupled to outputs of said cross-connect devices, wherein said cross-connect devices are operable to selectively distribute said communication signals on said individual communications paths to none, some or all inputs of said optical multiplexer units for distribution to said targeted recipients (e.g., col./line: 5/45-67).

Fatehi-767 does not disclose wherein said specified communication signals are contained on various optical wavelengths, one or more selected wavelengths being representative of a target service for said target recipients. Frigo disclosed a system where different services are rendered to different users on different wavelengths (e.g., col./line: 6/50-65). It would have been obvious to one of ordinary skill in the art at the time of invention to deliver services over different wavelengths. One is motivated to deliver services as such so as to deliver services to different users in other than a broadcast fashion such as multicast and switched services as discussed in Frigo, see col./line: 4/15-60).

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Regarding claim 5

Fatehi-767 does not disclose wherein said network is dynamically reconfigurable depending on changing customer needs. Frigo disclosed a network where services can be switched or routed to individual customers (see Frigo e.g., col./line: 6/50-65).

It would have been obvious to one of ordinary skill in the art at the time of invention to have a dynamic reconfigurable feature in the network so that a customer could select from the plurality of services offered in the network system.

Regarding claim 6

The modified invention of Fatehi-767 and Frigo does not disclose a controller coupled to cross-connect devices and said optical multiplexers, said controller being operable to track connections and signal distribution of said cross-connect devices and said optical multiplexer units to thereby determine usage of said specified communications signal by said targeted recipients. However Frigo does disclose a CO (99 of Figure 12) that is able to switch services to different users. It would have been obvious to one of ordinary skill in the art at the time of invention to track where services are switched in the network to ensure that services are delivered to the subscribing customer and is therefore billable.

Regarding claim 7

the modified invention of Fatehi-767 and Frigo disclosed wherein said cross-connects include M inputs and said optical multiplexers include N outputs, said connections between said cross-connect devices and said optical multiplexer units being divided into M/N groups

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(Fatehi - figure 4).

Regarding claim 8

the modified invention of Fatehi-767 and Frigo does not disclose a power splitter for splitting an incoming optical signal into a given number of outputs. It would have been obvious to one of ordinary skill in the art at the time of invention to use a power-splitter in the network so that signals could be replicated (fanned-out) in order to reach a larger service area. These devices are notoriously well known in the art for fanning out signals across a geographic area.

Regarding claim 10

The modified invention of Fatehi-767 and Frigo does not disclose wherein multiple ones of said apparatus are hierarchically distributed within said network. However, it would have been obvious to one of ordinary skill in the art at the time of invention to hierarchically distribute the selective switches in the network to geometrically expand the number of users accessible by the network as is well understood in the art.

Regarding claim 12,

Fatehi-767 does not disclose wherein the apparatus is used within a network with upstream communications. Frigo disclosed upstream network (83 and 86 of Figures 11A and 11B) communication. It would have been obvious to one of ordinary skill in the art at the time of invention to use the Fatehi-767 distribution apparatus in a network with upstream



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communications such as Frigo's so that the network would be dynamic and responsive to customer commands rather than a traditional one-way broadcasting system.

3. Claims 2, 4, 13 - 18, and 20 - 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fatehi et al. US 5,959,767 (Fatehi-767) and Frigo et al. US 5,742,414 (Frigo) as applied to claim 1 above, and in further view of Pimpinella US 6,396,573 B1 (Pimpinella).

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art only under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 103(a) might be overcome by: (1) a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not an invention "by another"; (2) a showing of a date of invention for the claimed subject matter of the application which corresponds to subject matter disclosed but not claimed in the reference, prior to the effective U.S. filing date of the reference under 37 CFR 1.131; or (3) an oath or declaration under 37 CFR 1.130 stating that the application and reference are currently owned by the same party and that the inventor named in the application is the prior inventor under 35 U.S.C. 104, together with a terminal disclaimer in accordance with 37 CFR 1.321(c). For applications filed on or after November 29, 1999, this rejection might also be overcome by showing that the subject matter of the reference and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person. See MPEP §

706.02(l)(1) and § 706.02(l)(2).

Regarding claim 2, 4, 13, 14, 21, 22

The modified invention of Fatehi-767 and Frigo does not disclose that the apparatus is used within a passive optical network (PON). Pimpinella disclosed a CATV PON (figure 2). It would have been obvious to one of ordinary skill in the art at the time of invention to use the Fatehi-767 and Frigo apparatus in the Pimpinella distribution system to gain the benefits of a loss-less broadcasting system for WDM networks such as PONs, see Fatehi-767 e.g., col./line: 3/1-5, 64-67, 4/1-5).

Regarding claim 15

Fatehi-767 does not disclose wherein said network is dynamically reconfigurable depending on changing customer needs. Frigo disclosed a network where services can be switched or routed to individual customers (see Frigo e.g., col./line: 6/50-65).

It would have been obvious to one of ordinary skill in the art at the time of invention to have a dynamic reconfigurable feature in the network so that a customer could select from the plurality of services offered in the network system.

Regarding claims 16, 23

The modified invention of Fatehi-767, Frigo and Pimpinella does not disclose a controller coupled to cross-connect devices and said optical multiplexers, said controller being operable to track connections and signal distribution of said cross-connect devices and said optical

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multiplexer units to thereby determine usage of said specified communications signal by said targeted recipients. However Frigo does disclose a CO (99 of Figure 12) that is able to switch services to different users. It would have been obvious to one of ordinary skill in the art at the time of invention to track where services are switched in the network to ensure that services are delivered to the subscribing customer and is therefore billable.

Regarding claim 17

The modified invention of Fatehi-767, Frigo and Pimpinella disclosed wherein said cross-connects include M inputs and said optical multiplexers include N outputs, said connections between said cross-connect devices and said optical multiplexer units being divided into M/N groups (Fatehi - figure 4).

Regarding claims 18, 24

The modified invention of Fatehi-767, Frigo and Pimpinella does not disclose a power splitter for splitting an incoming optical signal into a given number of outputs. It would have been obvious to one of ordinary skill in the art at the time of invention to use a power-splitter in the network so that signals could be replicated (fanned-out) in order to reach a larger service area. These devices are notoriously well known in the art for fanning out signals across a geographic area.

Regarding claim 20

The modified invention of Fatehi-767, Frigo and Pimpinella does not disclose wherein

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multiple ones of said apparatus are hierarchically distributed within said network. However, it would have been obvious to one of ordinary skill in the art at the time of invention to hierarchically distribute the selective switches in the network to geometrically expand the number of users accessible by the network as is well understood in the art.

***Allowable Subject Matter***

4. Claims 9, 19 and 25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David C. Payne whose telephone number is (571) 272-3024. The examiner can normally be reached on M-F, 7a-4p.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Chan can be reached on (571) 272-3022. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dcp



David C. Payne  
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AU 2633